Justice

Northern Access to Justice Committee

Final Report

September 2007

Saskatchewan

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I. EXECUTIVE SUMMARY

Saskatchewan's North has access to justice issues arising from geography, cultural and linguistic difference, lack of information and lack of understanding of the role of the courts and the justice system in resolving community, family and individual concerns. The Northern Access to Justice Committee looked at a number of core issues under three broad headings:

- jurisdiction and expansion of the Courts' role;
- services; and
- geography and technology.

Jurisdiction and Expansion of the Courts' Role

The distinction between the jurisdiction of the Provincial Court and Court of Queen's Bench raises access to justice issues in the North. The Provincial Court is only able to hear the matters reserved to it by law. The Court of Queen's Bench, otherwise able to hear the full range of legal matters, is generally present only as far north as North Battleford, Prince Albert or Melfort. Northerners and their family members faced with family or criminal law issues may therefore have to travel long distances to get to the nearest court location, or those involved in a criminal matter in the North may face problems accessing jury trials locally, while parties may sometimes need to compromise to allow matters to be dealt with closer to home.

The Committee determined that there is potential for change in the manner that courts deliver services and the use made of court jurisdiction. This entails a continuing role for the Provincial Court in family matters and early case resolution, coupled with more accessible information resources to inform northerners of the availability of Provincial Court family law remedies, more Aboriginal judges, judges familiar with the North and Cree and Dene speaking court staff, additional court sittings on-reserve and a greater role for Justices of the Peace. As well, the Committee indicated that there is scope for regular sittings of the Court of Queen's Bench in northern locations, provided that sufficient resources are available. Such northern sittings would allow jury trials in northern locations, potentially with a local jury array, and may allow the full range of family and certain criminal matters to be dealt with closer to home.

As well, while the Committee made no recommendation to alter the current court model, it did note that the court model may have an impact on access to justice, as rural and northern areas may have a level of access different from other centres. The Committee therefore recommended that the Province study various court models, including the local masters model, the Nunavut Court and those discussed by the British Columbia Justice Review Task Force. Such a study might determine how to increase access through the manner in which justice is organized, while promoting the rule of law, involving the community, encouraging partnerships and improving the overall effectiveness of interventions. Pending such a study, the Committee recommended that the Provincial Court pilot an early case resolution pilot model in the North for family law matters.

The Committee also indicated that courts in the North should use therapeutic approaches to justice. This would entail not just a new approach from courts, but would also necessitate greater resources to support mental health, FASD, addictions and substance abuse services.

Services

At the same time, justice-related services need to be better supported in the North. The geography of the North and nature of northern justice concerns pose challenges that are not being met within current resources. For example, services need to be more widely available and more intensively delivered along the "cascade", or continuum, of family law justice services, from the initial identification of issues through resolution processes to enforcement. This may enable earlier resolution of cases, more information for people in the North, better justice outcomes and less mistrust of the court system. Criminal justice also requires additional resources to support services in the North. The Victims Services Program, the Community Justice Program, community correctional services, public prosecutions and the Saskatchewan Legal Aid Commission could all benefit from additional resources to support services in the North. In addition, the courtworker program could be better supported so that it can improve its integration with the community, offer a wider range of services and expand the reach of the program.

Greater attention also needs to be paid to hiring and retention strategies, to ensure that there are sufficient people in the North to deliver services and that they are sufficiently qualified. This may require development of a recruitment and retention strategy to support increased resources to the North. The Departments of Saskatchewan Justice and Corrections and Public Safety could work with other departments and agencies, the Law Society of Saskatchewan, the Canadian Bar Association, Aboriginal communities, New North and other stakeholders to design a strategy that would address northern concerns and ensure an ongoing approach to recruitment and retention.

Communities could be more effectively engaged through the better delivery of services along the full continuum, as well as strategies designed to engage community leaders, heads of families, Elders and service providers who may be able to assist in the identification and resolution of community justice issues. This may help to ensure that communities resolve their problems rather than rely on outsiders to do so.

Geography and Technology

The distances between settlements in the North are large. It is often difficult to provide effective service over such a wide territory. In addition, transportation of judges, counsel, police and prisoners poses serious challenges. The Chief Judge has developed a protocol for telephone appearances in Provincial Court, which could be modified if necessary and exported to northern locations. Greater use of telephone, videophone and videoconferencing hearings, piloted successfully elsewhere, may reduce travel needs and hence resolve some concerns.

Videoconferencing could be adapted for the North based on the successful Saskatoon pilot project. Obviously, many details would need to be worked out, including consultations with stakeholders. Saskatchewan Justice indicated that there are several planned videoconference expansions, including: Pelican Narrows, La Ronge and Meadow Lake - Prince Albert Provincial Court; La Loche - Meadow Lake; and La Loche - Prince Albert. Expansion of videoconferencing to youth facilities is also being considered.

The Committee also raised concerns over releasing prisoners who have been remanded away from their home community. Releasing northern prisoners in a location away from their home community raises many concerns, including potential liability issues. A protocol will be developed between the Crown and the RCMP concerning the remanding of prisoners away from their home communities to La Ronge, Meadow Lake and Prince Albert. In future, the RCMP will transport prisoners home where this can be done in a timely manner – if not, the Province or federal government will do so.

II. INTRODUCTION

On January 13, 2006, representatives of the provincial Department of Justice and the Provincial Court of Saskatchewan met to discuss access to justice issues in response to concerns expressed by all partners in the justice system. This was followed by two meetings of representatives of the Court of Queen's Bench, the Provincial Court and Saskatchewan Justice who drew up a list of issues and developed an approach to address them.

Three committees were created to examine various access issues: Northern; Family/Youth; and Self-represented Litigants. The membership of each committee included judges of the Provincial Court, justices of the Court of Queen's Bench, representatives of the Department of Justice, the Law Society, the Canadian Bar Association, the Saskatchewan Legal Aid Commission, Justice Canada and other interested partners. The Northern Committee included representatives of the Prince Albert Grand Council (PAGC), Meadow Lake Tribal Council (MLTC) and the Royal Canadian Mounted Police (RCMP) (for a complete list of Committee members, please refer to Appendix A).

The Northern Access to Justice Committee had the following terms of reference:

> The Committee will focus on:
> - Justice, not social/economic issues, or policing issues, per se
> - Availability of Courts to resolve disputes in criminal, family and civil matters
> - Services supporting the justice system, including such matters as facilities and lawyers' availability

The Committee began meeting in December 2006. The initial meeting defined the issues. Further meetings were held to refine the issues and begin to examine them in more detail. The Committee determined that access to justice is of profound concern in Saskatchewan.

Members of the public may be unaware of existing services, services may be unavailable, or may not be available in certain locations. The justice system and services may, especially for some people in northern or rural Saskatchewan, literally be a long way away. For others, the justice system may be a frightening or little understood entity.

Lack of access to information and justice-related services not only reduces the efficiency of the system as a whole, but may lead to public frustration with the justice system, the public's sense that the justice system is less relevant and also to a feeling that the justice system does not reflect cultural or geographic difference.

Below, we describe the discussions of the Northern Access to Justice Committee, the basic principles upon which it based its deliberations, its definition of the key issues and its final recommendations. These recommendations go some way towards addressing the issues that the Committee raised and point towards future practical approaches to access to justice concerns.

III. SUMMARY OF RECOMMENDATIONS

(A) Jurisdiction and Expansion of the Courts' Role

Shorter-term Initiatives

Recommendation 1.1:

The Provincial Court should continue to hear support variation and maintenance applications, under provincial legislation, in any location not served by the Court of Queen's Bench in northern Saskatchewan, and efforts should be made to inform northerners of the availability of such remedies.

As well, in order to encourage greater use of Provincial Court remedies, a forum should be developed at which lawyers with a practice in northern Saskatchewan may discuss the use of Provincial Court remedies and other issues related to having family law matters heard in Provincial Court.

Recommendation 1.2

The Provincial Court should expand to more locations on reserve in Northern Saskatchewan and should consider whether there is a need for service in additional northern municipalities.

Recommendation 1.3

The Province should consider additional appointments of Aboriginal judges, judges familiar with the North and Cree and Dene speaking court staff to the Provincial Court in northern Saskatchewan as vacancies become available.

Recommendation 1.4

Linkages should begin to be made between the Provincial Court and MLTC with respect to a possible role for one or more judges of that court under the Meadow Lake First Nations self-government agreement (under negotiation).

Recommendation 1.5

Additional work should be undertaken by the Provincial Court and the Province on defining and expanding the role of Justices of the Peace. Particular examination should be made of the role of JPs as chairs of local Community Justice Committees.

Recommendation 1.6

The Committee recommends that the Court of Queen's Bench should hear criminal, civil and family matters routinely in La Ronge and Meadow Lake as well as other communities such as either Buffalo Narrows or Île-à-la-Crosse, provided that appropriate resources are made available. Pre-trials should also be undertaken in these locations.

As well, consideration should be given to establishing one or more judicial centres in the North.

Recommendation 1.7

The Committee recommends that consideration should be given by the Court of Queen's Bench to creating a committee of judges of that Court, representatives of the Provincial Court, Saskatchewan Justice, the Crown, legal aid, the Law Society, the Canadian Bar Association and community stakeholders to examine northern Queen's Bench court services.

Longer-term Initiatives

Recommendation 1.8:

A review of court models should be undertaken involving the Province, Provincial Court and Court of Queen's Bench, to determine the options for enhancing access to courts in remote locations.

Recommendation 1.9

Pending the study noted above, we recommend that the Provincial Court, with local support services, pilot an approach to increase access to justice in Northern locations by providing early fact and issue determination and settlement/mediation processes in civil and family disputes.

Recommendation 1.10

Courts should provide therapeutic approaches in northern communities and greater resources need to be made available for support services such as mental health, FASD, substance abuse and addictions services to support such approaches.

(B) Services

Recommendation 2.1

It is recommended that family law services to the North be enhanced as follows:

a) **New approaches be taken to ensure that access to information about the family justice system and the rights of individuals, among other things, be provided to citizens in the North through processes such as public education over the radio, access to a family law line or Internet portal,[1] piloting a family service centre "hub" concept in the North, and ensuring that family law information materials are accessible and available in appropriate media and languages for northerners.**
b) **Family justice services such as mediation be made more available to northern residents – this includes the potential of creating locally trained mediators, expansion of Justice mediation resources, and/or the creation of a mediation capacity pilot in the Provincial Court;**
c) **Enhance family legal aid capacity in the North;**
d) **Pilot an expansion of the Aboriginal courtworker role to child protection matters to include explaining the process to families and assistance in their preparation or participation in mediation or court proceedings, as well as development of an Aboriginal conferencing model such as the Opikanawasowin ("Opik") model that has been used in Saskatoon.**
e) **Enhance access to self-help kits for applications and court forms, and provide assistance in completing these kits, in order to improve access to the court process in northern communities.**
f) **Increase the access northern clients have to support variation services and the enforcement services of the Maintenance Enforcement Office/Family Justice Services.**

[1] The Family and Youth Access to Justice Committee has recommended that the Province undertake a feasibility study of a law line and Internet portal, and perhaps a family law "hub", with a view to initiating such services.

Recommendation 2.2

It is recommended that criminal justice services be enhanced as follows:
a) Upgrade existing Victims Services Coordinator positions to full time, and introduce new services into key areas that are not yet serviced.
b) Ensure that all First Nations and larger municipalities in the North have full time Community Justice Workers.
c) With respect to the Aboriginal Courtworker Program, coordinate the activities of existing resource people:

- **All courtworkers in the North should become duty courtworkers.**
- **All courtworkers should be assigned to dedicate about 10% of their time to do research on the community and report back to the family/community leaders. This would include the provision of full-time positions where necessary so that courtworkers could provide a portion of their time to research and community development.**
- **Combining Resources – There is potential that, in some communities, the Community Justice Worker and the Aboriginal courtworker positions could have combined functions.**
- **Capacity Building – all resources should be identified as either a direct service provider or a referral agency. Courtworkers should provide training to integrate other front-line workers into direct service provision, such as mediation support for family/community leaders, Elders and service providers.**
- **Justices of the Peace should get increased support from courtworkers.**
- **Status blind service needs to continue, because it enhances community problem solving, rather than enhance the control of particular families/community over the development and allocation of services.**

d) Review Legal Aid staffing and services with the Saskatchewan Legal Aid Commission with a view to providing enhancements in areas where gaps in service occur.
e) Review the need for additional public prosecutions resources to address the resource pressures created by new initiatives.

Recommendation 2.3

That Saskatchewan Justice and Corrections and Public Safety, in conjunction with other departments and agencies, the Bar, Aboriginal communities and other stakeholders, develop a recruitment and retention strategy for northern justice services, including recruitment and retention of lawyers, non-lawyer court staff, corrections employees and other justice service providers, both in a union and non-union environment.

Recommendation 2.4

Engage community leaders and extended families, Elders and service providers and other strategic persons in developing solutions to service concerns. It is

important to increase capacity so that communities do not have to rely on outsiders.

Recommendation 2.5

We recommend that the Department of Corrections and Public Safety continue with the following planned initiatives:

1. Finalize work on recruitment and retention of youth workers and adult probation in the North that will provide additional support to attract, train and retain workers at northern office locations.
2. Work with Athabasca, Prince Albert Parkland and Northern Health Districts to pilot satellite youth addictions and mental health assessments and treatment, allowing more assessments to be completed and providing more treatment services while offenders remain in their home communities.
3. Develop a Memorandum of Understanding with the Mamawetan Health District and the Community Service Centre in Sandy Bay to hire and support a youth addictions worker for Sandy Bay and Pelican Narrows.
4. With justice Community Services review the alternative measures program in the north, amongst other items looking at access to programs and the integrity of programming.
5. Increase the capacity of existing community-based organizations in the north by providing training and follow-up to training to ensure what is learned is used in client service.

The Committee further recommends that the following more long-term enhancements be examined:

6. Increased screening of offenders by JP and/or Crown such that only those offenders who require ongoing remand be held in custody.
7. That service capacity in Northern communities with high offender traffic is enhanced through building on community infrastructure where it exists and through bundling of services within an agency. This will provide a service response that would support police options to charge, detention and remand and provide more credible service responses located in the immediate community. Services that might be bundled are adult and youth alternative measures programs, support and intensive supervision services (presently contracted service providers) and community connections and reintegration services. These services can include supervision of undertakings. Where other departments have a service response (for example DCR with family support services) these services might be included in service bundles.

Recommendation 2.6

An educational and information network should be established to assist citizens in understanding the justice system and court services.

(C) Geography and Technology

Recommendation 3.1

Increase the focus on the use of telephone and videoconferencing to accomplish the following objectives:

- **Reduce the need to transport prisoners for routine court appearances;**
- **Allow prisoners in RCMP cells to be dealt with on a more timely basis;**
- **Reduce the length of docket at busy circuit point locations;**
- **Allow court at circuit point locations to proceed during bad weather days;**
- **Allow counsel to appear by telephone where appropriate.**

Recommendation 3.2

Implement the following initiatives in consultation with stakeholders:

a) The Provincial Court should implement the telephone protocol for all circuit points in the North. Court Services will ensure communication lines and equipment are available at each circuit point to facilitate court to be held via telephone.

b) The Provincial Court should allow first appearances, routine appearances and bail hearings to be held via videoconferencing. In 2007-08, arrangements will be made for remanded prisoners from the Prince Albert Correctional Centre and Pine Grove Correctional Centre to be transported to Prince Albert Provincial Court. Court Services will install equipment at Prince Albert, La Ronge and Meadow Lake Provincial Courts and the La Loche and Pelican Narrows RCMP Detachments.

Videoconferencing will be held as follows:

1. **Pelican Narrows RCMP cells and Prince Albert Provincial Court (form part of the in-custody docket in Prince Albert).**
2. **La Ronge Provincial Court and Prince Albert Provincial Court (form part of the in-custody docket in La Ronge) this could include prisoners from both La Ronge and circuit points served from La Ronge.**
3. **Meadow Lake Provincial Court and Prince Albert Provincial Court (form part of the in-custody docket in Meadow Lake). This could include prisoners from Meadow Lake and circuit points served from Meadow Lake.**
4. **La Loche RCMP cells and Meadow Lake Provincial Court (form part of the in-custody docket in Meadow Lake).**
5. **La Loche Provincial Building and Prince Albert Provincial Court (regular circuit).**
6. **Consideration could be given to the use of Video court for young offender docket matters as well. This could mean:**
   - **i. Remand youth from the north at Prince Albert Youth Residence access video court links to northern video court points from the Prince Albert courthouse.**
   - **ii. Additionally, consideration could be given to build a video court at the North Battleford courthouse that would link remanded young offenders at the North Battleford youth centre to northern court points.**

c) Court Services and CPS should explore the feasibility of completing phase 2 of the Video-Court at the Saskatoon Correctional Centre in 2007-08. Videoconferencing will be expanded to include the following:

- **Routine appearances and bail hearings between Saskatoon Provincial Court and the Saskatoon Correction Centre.**
- **First appearances, routine appearances and bail hearings between Prince Albert Provincial Court and the Saskatoon Correctional Centre.**
- **First appearances, routine appearances and bail hearings between Meadow Lake Provincial Court and the Saskatoon Correctional Centre.**

d) Court Services and the RCMP should continue to implement video-conferencing at circuit points in the North. The focus in 2007-08 will be Pelican Narrows and La Loche.

e) Court Services and CPS should partner to develop options to implement a video-court at the Prince Albert Correctional Centre and Pine Grove Correctional Centre. Cost estimates will be provided in preparation for the 2008/09 budget process.

f) Court Services and CPS should partner to explore options to implement video-courts at the Saskatoon, North Battleford and Prince Albert Youth Facilities as

part of the 2008/09 budget process.

g) The Court of Queen's Bench work with Court Services to examine the potential for development of video-technology resources for the use of Queen's Bench in northern locations.

Recommendation 3.3

That the RCMP and the Crown work together to develop a protocol for remanding prisoners to La Ronge, Meadow Lake and Prince Albert. Where prisoners are released from remand in La Ronge, Meadow Lake and Prince Albert, the RCMP should provide transportation home, particularly to fly-in locations. Where it is not feasible for the RCMP to provide transport in a reasonable period of time, the Province or the Federal Government should pay for that transport.

IV. THE COMMITTEE'S WORK

Some northern access to justice concerns are unique, while others are part of wider access issues. Northern access needs are founded on the remoteness of many northern locations, cultural and language difference, the lack of resources to build a necessary continuum of services, the historical approach to the provision of justice system services, lack of understanding of the justice system and, in some instances, a lack of sufficient community engagement in justice responses. The North also faces some access issues similar to those faced by family law and self-represented litigants elsewhere in the province.

The Committee laid out a number of **principles** upon which to base its discussions and recommendations:

- build on strengths;
- involve the community;
- equity of access;
- rule of law;
- effectiveness of interventions;
- better information and understanding;
- build through partnership; and
- adequate resources are in place.

The Committee identified three large headings under which to group the key northern access to justice issues:

- jurisdiction and expansion of the courts' role;
- services; and
- geography and technology.

(A) Jurisdiction and Expansion of the Courts' Role

Courts' jurisdiction poses access to justice challenges in the North. Court points are far apart – it requires a lot of time and a lot of money to move court parties. It also requires a lot of time and a lot of money for potential litigants to get to court points, to travel to places where they could receive assistance with their claim or defence or even to access legal representation. The Provincial Court reaches more locations and, through the Aboriginal court parties, may offer more culturally relevant justice approaches. Statute and constitutional law, however, limit the Provincial Court's jurisdiction.

The Provincial Court has jurisdiction as a court of criminal jurisdiction over summary and non-jury matters as the accused elects, is the province's youth justice court, hears small claims matters under *The Small Claims Act, 1997* and holds concurrent jurisdiction in certain family law matters in northern, rural and smaller urban locations. The Provincial Court does not have jurisdiction over custody and access, nor does it have jurisdiction under the *Divorce Act*. In addition, the Court of Queen's Bench enjoys certain other advantages arising from its status as a court of inherent jurisdiction and as a "section 96" court under the *Constitution Act, 1867*.

The Jurisdiction of the Provincial Court and Court of Queen's Bench

The Committee discussed these issues at some length. The quick fix would be to provide the Provincial Court with a wider mandate, so that it could hear more family matters. For Cree speakers, through the Cree Court parties, this would open up family law services in their own tongue. The Committee discussed having the Court of Queen's Bench sit at regular intervals in northern locations such as La Ronge and Meadow Lake and perhaps other locations such as Buffalo Narrows or Île-à-la-Crosse, depending on the level of need and analysis of other relevant factors.

A Queen's Bench presence in the North might allow jury trials to be held closer to the affected community than Melfort or Prince Albert and potentially allow for jury arrays containing more community members, or at least people who live closer to the affected community. Custody and access and divorce matters could then be initiated closer to northerners' homes and more family law applications could be heard in the North. The court could run pre-trials and help resolve some matters earlier in the process. Also, there was some discussion of a greater role for Justices of the Peace, who may be able to connect the justice system with the local community.

The number of people who would take up the opportunity to use such expanded court services, however, may be affected by underlying issues that need to be addressed. People in the North may not have sufficient knowledge of the system to use it as a matter of course and there is a certain amount of misunderstanding between the courts and communities. Northerners may have needs different from southerners and may have family or other civil law issues that need to be resolved differently from other parts of the province.

Shorter-term Initiatives

1. Maintenance and Support Matters

Background: Maintenance/Support Matters

While the Provincial Court has jurisdiction to deal with child protection and spousal and child support matters under provincial law in areas where the Queen's Bench Family Law Division does not have exclusive jurisdiction, it appears that counsel may not choose to bring support matters forward in Provincial Court in some northern locations. This may be as a result of support applications being linked to custody and access, matrimonial property or *Divorce Act* matters which lie outside the jurisdiction of the Provincial Court.

It is not clear, however, whether the lack of routine use of the Provincial Court is linked to the considerations above, to other practice considerations or to lack of familiarity with Provincial Court jurisdiction. Thus, there may be a need to consult at greater length with the Bar.

The Committee also noted that the ability to deal with support matters at the Provincial Court level might be enhanced by greater access to support variation and maintenance enforcement services provided by Family Justice Services.

Recommendation 1.1:

The Provincial Court should continue to hear support variation and maintenance applications, under provincial legislation, in any location not served by the Court of Queen's Bench in northern Saskatchewan, and efforts should be made to inform northerners of the availability of such remedies.

As well, in order to encourage greater use of Provincial Court remedies, a forum should be developed at which lawyers with a practice in northern Saskatchewan may discuss the use of Provincial Court remedies and other issues related to having family law matters heard in Provincial Court.

2. Court Locations

Background: Court Sitting Locations

The issue of geographical access to the courts for citizens in northern locations is always a concern, as is the need to ensure that matters are heard in the community where the parties are located and that information and evidence are more readily available. While the Provincial Court currently sits in 14 reserve locations in the North, lack of geographical access may still be an issue in some communities. Court parties must travel over long distances and face logistical problems arising from air schedules and road conditions. As well, air travel costs far more in the North than in other parts of

Saskatchewan – it may be cheaper to fly from Prince Albert to Europe than to the far north. This is also a concern for First Nations and Métis communities.

Cultural Relevance

There are currently two Aboriginal Provincial Court judges serving the North – one with the Cree Court on the east side and the other with the Meadow Lake Aboriginal Court. The ability of the Provincial Court to deal with matters in an Aboriginal language, to be sensitive to cultural and community issues and to demonstrate the ability of the justice system to address community needs is seen as positive according to initial evaluations and the response of the community or community leaders. Given the high proportion of the northern population that is Aboriginal, increasing the number of Aboriginal judges is seen as a positive approach to increasing access to, and community support for, the Provincial Court. As well, Cree and Dene speaking court staff have had a positive impact on court process, as they are able to translate and clarify court procedures. The recruitment of additional Cree and Dene speaking court staff should be encouraged.

Any recruitment and retention strategy will need to be conscious of the need for additional Aboriginal lawyers, judges and court staff. The MLTC indicates that it is already encouraging legal education, but that more needs to be done across the province to recruit and retain Aboriginal people in justice positions.

Recommendation 1.2

The Provincial Court should expand to more locations on reserve in Northern Saskatchewan and should consider whether there is a need for service in additional northern municipalities.

Recommendation 1.3

The Province should consider additional appointments of Aboriginal judges, judges familiar with the North and Cree and Dene speaking court staff to the Provincial Court in northern Saskatchewan as vacancies become available.

3. Links to Self-Government Discussions

Background: Enhancing Links to Discussions on Self-government as Related to Court Jurisdiction

Canada and the Meadow Lake First Nations have been engaged in discussions on a self-government arrangement for several years. The Province of Saskatchewan has also been involved in order to discuss matters of provincial interest. As the negotiations progress, it is understood that the draft Agreement deals with justice issues, including which courts may hear matters under First Nations laws or, with agreement of the parties, under provincial or federal laws.

As these discussions may raise expectations for the operation of the Provincial Court in the North, some more direct dialogue between Meadow Lake First Nations and the Provincial Court may be warranted.

Recommendation 1.4

Linkages should begin to be made between the Provincial Court and MLTC with respect to a possible role for one or more judges of that court under the Meadow Lake First Nations self-government agreement (under negotiation).

4. Justices of the Peace

Background: Role of Justices of the Peace

Justices of the Peace play an important role not only within criminal justice procedure, but also as a link between the community and the criminal justice system. These court officers obviously have a role in overall justice system effectiveness, as they provide services where necessary under the *Criminal Code*. This permits other resources to be used more effectively.

Justices of the Peace live and work in the communities that they serve. In some communities, they may be one of only a couple of justice system representatives. They may therefore be able to play an important role in identifying and helping to resolve justice concerns in local communities and may be able better to engage local leadership in resolving such issues and building local capacity.

How the Justices of the Peace could assist is not yet clear. A study may need to be initiated to determine what role they could play and how they could play it. The Provincial Court could lead such a study in conjunction Saskatchewan Justice and other key members of the justice system.

Recommendation 1.5

Additional work should be undertaken by the Provincial Court and the Province on defining and expanding the role of Justices of the Peace. Particular examination should be made of the role of JPs as chairs of local Community Justice Committees.

5. Queen's Bench in the North

Background: Improving Access to the Queen's Bench in the North

While the Court of Queen's Bench has held sittings in La Ronge in the past, access to the Court of Queen's Bench in the North is generally seen as limited. Queen's Bench locations may often be far away and there may be logistical problems in filing in a timely manner at those locations. There is a general sense that the Court should be sitting in

northern locations at more regular intervals and be available for pre-trial conferences as well. Certainly, La Ronge and Meadow Lake are seen as sites where a regular Court of Queen's Bench presence is desirable. As well, a third community may be needed, perhaps either Buffalo Narrows or Île-à-la-Crosse. More work is required to determine how the Court of Queen's Bench might otherwise improve access for parties in the North. For example, there may be potential for Provincial Court staff to play some cross-over role to assist in establishing court dates for Queen's Bench pre-trials or sittings in the North or for processing paper proceedings/pleadings for the Court of Queen's Bench.

In order better to understand the potential role of the Court of Queen's Bench in the North and to respond to issues as they arise, the Committee recommended the creation of a committee with representation from the Court and other stakeholders.

Recommendation 1.6

The Committee recommends that the Court of Queen's Bench should hear criminal, civil and family matters routinely in La Ronge and Meadow Lake as well as other communities such as either Buffalo Narrows or Île-à-la-Crosse, provided that appropriate resources are made available. Pre-trials should also be undertaken in these locations.

As well, consideration should be given to establishing one or more judicial centres in the North.

Recommendation 1.7

The Committee recommends that consideration should be given by the Court of Queen's Bench to creating a committee of judges of that Court, representatives of the Provincial Court, Saskatchewan Justice, the Crown, legal aid, the Law Society, the Canadian Bar Association and community stakeholders to examine northern Queen's Bench court services.

Longer Term Initiatives

6. Structure of the Courts

Background: Study of Court Model Options for the North

The Committee discussed the overall model for the delivery of court services. Several innovative court models were reviewed, including the "local masters" model, in which lawyers or lower court judges are named masters of a court of inherent jurisdiction and take responsibility for hearing chambers applications, motions, consent hearings and other matters that would otherwise be heard by a justice of a superior court.

The most evolved and expansive version of this model is found in Manitoba, where Masters may hear any procedural motion or motion on summary judgment except those

specifically excluded in Sub-rule 37.02(2) of the *Manitoba Court of Queen's Bench Rules*. Masters in Manitoba have full jurisdiction in family matters, within the constitutional bounds that s. 96 of the *Constitution Act, 1867* imposes. Masters preside over child protection dockets and can grant consent orders. They also have maintenance enforcement jurisdiction akin to maintenance enforcement chambers in Saskatchewan. Masters in British Columbia have similar jurisdiction under s. 11 of that province's *Supreme Court Act*.

Manitoba's masters also have jurisdiction to approve bonds and other comity issues, take references in estate matters and solicitor client fee references, as well as acting as registrars in bankruptcy. Judges may refer any matter to a master.

The Committee also looked at the Nunavut Court model. There is only one, unified, court in Nunavut. It hears all matters under all legislation. It is both a court of summary criminal jurisdiction and of superior inherent jurisdiction. According to its website:

> The Nunavut Court of Justice is new in more than just a name. It is Canada's first, and only, single level court, which came into existence in Nunavut on April 1, 1999. This initiative evolved over several years through a widely consultative process in which sweeping federal and territorial legislative amendments were required.
>
> Prior to April 1, 1999 we had the Territorial Court and also the NWT Supreme Court. The Supreme Court had more power or jurisdiction to hear cases than the Territorial Court. But now, in Nunavut, the jurisdiction or power of the two Courts has been brought together under one "judicial roof". In our large territory it makes sense that one Court has the power to handle any type of case.

Implementation of such a court in northern Saskatchewan would raise complex legal issues and practical considerations. These issues would have to be considered in the light of evidence that the Nunavut Court has had a positive impact on access to justice.

British Columbia has also examined court models at regular intervals, due to the difficulties in delivering legal services in B.C. During a pilot project in the 1970's, B.C. Provincial Court judges were given authority to conduct hearings and submit reports and make recommendations on family matters to the Supreme Court of British Columbia. A single administration served both courts and they shared family support services. According to the 2005 Final Report of the BC Justice Review Task Force, this option was not much used, proceedings continued to be duplicated and it did not eliminate forum shopping.

In 1988, the Justice Reform Committee of B.C., chaired by Ted Hughes, recommended a type of coordinated jurisdiction with every Provincial Court registry becoming a sub-registry of the Supreme Court for family matters and with Provincial Court judges sitting as masters of the Supreme Court. As well, the Hughes Committee proposed that, if the parties agreed, a Provincial Court judge sitting as a master could vary a support, custody

or access order of the Supreme Court. Family justice services were also to be available through the Provincial Court. The Task Force indicated that this change was not implemented for two reasons: Provincial Court judges did not wish to assume these functions; and because of constitutional concerns about the ability of Provincial Court judges to vary Supreme Court orders.

The BC Justice Reform Task Force, having considered the various ideas previously raised, including the creation of a unified family court for B.C., suggested a third alternative: a single administrative entity and filing window with wide geographic access. In this model, the Provincial Court would be a sub-registry of the Supreme Court, there would be one set of family law rules and forms for both the Supreme and Provincial Court and all Provincial Court judges would be designated masters of the Supreme Court. Provincial Court judges would be authorized to conduct hearings and submit reports and recommendations on simple property division cases to the Supreme Court for confirmation. These recommendations would then be confirmed by "desk orders" or consent judgments without the necessity of anyone appearing in Supreme Court.

Other jurisdictions, such as Ontario, have also looked at ideas for streamlining processes, such as uniform rules for Provincial and Supreme Court.

Saskatchewan could benefit from an analysis of the reforms undertaken by other jurisdictions focused on what worked what did not. This could assist Saskatchewan to identify practical changes for consideration. A significant amount of research and attempts at reform has occurred in other jurisdictions. A study of options should therefore not require significant new research, but rather a gathering of information, analysis and discussion of options, particularly concerning the local masters model, the Nunavut Court and the B.C. models discussed. The principles outlined above, particularly the rule of law, the effectiveness of interventions, the importance of partnership and community involvement, need to be borne in mind in any such study.

Recommendation 1.8:

A review of court models should be undertaken involving the Province, Provincial Court and Court of Queen's Bench, to determine the options for enhancing access to courts in remote locations.

7. Court Access

Background: Pilot Approach to Enhancing Access to the Courts: Early Case Resolution

As the Provincial Court currently does not exercise extensive jurisdiction in family matters, and given the limited access that northern communities have to services and supports to address family issues, there is a lack of information about the demands that might be made on the Provincial Court if family law jurisdiction were enhanced. As well, many family issues might be resolved or narrowed through better access to

information about the justice system or through increased access to mediation so as to resolve issues without resort to the courts. The issue would then remain whether parties with a conflict that needs to be resolved by trial should be heard in Provincial Court or Queen's Bench.

Some jurisdictions in the United States have created hearing officer programs to assist in identifying concerns related to caseload and process, how to support local resolution of disputes etc. These programs allow parties to participate in a fact-finding, option-building resolution process under the guidance of someone with legal and mediation training. This can lead to agreements and the filing of consent judgments, or at least result in narrowing the issues in dispute.

A pilot could be developed with the Provincial Court in the North to test the demand for, nature of and supports needed to resolve family law issues at a more local level. A combination of pre-trial hearing and mediation processes might be piloted involving the Provincial Court. A pilot project would not require any legislative change, but would require consideration of:

- criteria for the type of disputes that could be brought forward;
- the process for in-take and scheduling of such a conference [the process could be based on a form of pre-trial settlement conference or on a mediation model];
- adequate training for those involved in the conferencing on process and subject matter issues [Provincial Court, court staff, legal aid, courtworkers, community justice workers etc.];
- information services in select communities to assist in making people aware of the type of issue that could be brought forward and how the issues could be raised; and
- record keeping and evaluation processes to evaluate the impact of the pilot.

Recommendation 1.9

Pending the study noted above, we recommend that the Provincial Court with local support services pilot an approach to increase access to justice in Northern locations by providing early fact and issue determination and settlement/mediation processes in civil and family disputes.

Background: Therapeutic Approaches

The Committee also looked at therapeutic approaches to justice. There are domestic violence courts in North Battleford and Saskatoon and a drug treatment court in Regina. These courts link offenders who have plead guilty to mental health or addictions services and provide regular oversight to ensure that offenders continue to receive treatment. If an offender makes sufficient progress, he or she is offered a reduced sentence. Where demand warrants it and resources are available, such discrete therapeutic courts could be considered for northern locations.

However, the Committee saw potential for a broader therapeutic approach, in which the courts would apply therapeutic principles as a part of everyday court processes. There

are several challenges to expanding the use of therapeutic services in this manner, including that a much wider range of service enhancements would have to be undertaken. Even mobile services would have to be increased considerably so to make coverage intensive enough across the North that courts would feel comfortable in assigning offenders to ongoing treatment services.

The Committee also discussed a third type of therapeutic approach, the "appearance court". This would involve a judge assigning offenders, where appropriate, to whatever treatment services are available locally. This would be less intensive and require fewer resources. This approach has not been tested in Canada and it is not known how successful it would be in practice in Saskatchewan.

Recommendation 1.10

Courts should provide therapeutic approaches in northern communities and greater resources for support services such as mental health, FASD, substance abuse and addictions services to support such approaches need to be made available.

(B) Services

2.1 Justice Services

As shown below in the graphic "cascade" of services (see page 25), the justice system has a continuum along which services may be placed. Where services are available along the continuum, the justice system is more effective; where services are unavailable, inequitably available or under-resourced, the justice system will be less effective and less trusted by members of the public.

The Committee discussed the justice services available to northerners within the context of a continuum of services and with the principles discussed above (see page 12) in mind. Often, insufficient resources have been made available for victims or community justice services, legal aid, public prosecutions, Aboriginal courtworkers or other justice services. Even where such services exist, they are often under-funded or spread too thinly across a wide geographic area. This has meant that it is more difficult for communities to engage with the justice system and that people in the North may sometimes lack understanding of the justice system and, on the other side, that the justice system may not understand northern needs.

There are also concerns over the provision of information. While print resources are available, not everyone is able to read them. In addition, at a meeting with members of the Family and Youth Access to Justice Committee, representatives of the Métis Child and Family Justice Services (MFCJS) and Saskatchewan Aboriginal Women's Circle Corporation (SAWC) indicated that family law print materials need to be distributed from groceries, washrooms, health centres and other multi-service centres from which they will not "disappear". They also need to be in a form that is easy to use or access. A call

centre and Internet portal, as recommended by the Family and Youth Access to Justice Committee, information "hubs", also as recommended by that Committee, or local radio broadcasts may assist northern communities to access information.

Community Services

There are insufficient resources in the North to support community justice services. There was discussion of the current role of Aboriginal courtworkers and whether this role could be expanded, or services provided to increase its presence in the community. The Committee felt that, while the current program is working well, there is a need to have courtworkers in more locations, doing more things and with a greater connection to the community. This would build on local capacity through information gathered from the local community, while at the same time increasing capacity where necessary. Courtworkers could assist other service providers with training in mediation or other justice-related skills.

There are also fewer resources to engage the community in justice related changes. Courtworkers and community justice workers could improve the connection between communities and the justice system, if resources were made available. The Committee noted the importance of engaging influential community members in justice system solutions, as well as ensuring that communities are part of any implementation processes.

In addition, there is less capacity in the North to support the court. The Department of Corrections and Public Safety requires additional resources to ensure that pre-sentence reports are prepared in a timely manner, as well as to make sure that supervision in the community is of a high quality. At the same time, victims services needs a more permanent presence in the North.

These programs are all under-funded for the complexities of northern conditions, and hence additional resources are necessary. Legal aid lawyers are so stretched by case volumes and the logistical problems of delivering justice services in the North that they may sometimes be unable to meet with their clients in person. They have less knowledge of each individual client's file and hence justice may be less timely. Additional resources may be available for legal aid in the North, but more could always be used. The federal government needs to be made aware of the challenges to delivering legal aid in the North, particularly around family law.

Greater support is necessary for human services in the North, particularly health. These services are essential to crime prevention, as well as the provision of justice services.

Early Case Resolution

The Committee underlined the importance of mediation or other counselling or conferencing models to improved justice in the North. Concerns could be addressed earlier on in the process, before a matter reaches trial. The Committee reviewed several models from other jurisdictions that use mediation, hearing officers, referees or other early alternative case resolution procedures to resolve as many matters as possible before they ever reach court. An interesting early alternative case resolution model is the "hearing officer" process employed in some jurisdictions in the United States. Parties in such a process are given an opportunity to participate actively in fact-finding, the identification of options and definition of issues under the guidance of someone with legal and mediation training. When a settlement is reached, a consent judgment can be prepared and where a settlement is not reached there is the potential for some form of report on factual issues to be filed with the court.

Aboriginal Conferencing

The Committee also heard about the Opikanawasowin (Opik) model and other Aboriginal conferencing models that could engage the community and families to craft solutions to child-centred problems without the need for a trial. The court adjourns a hearing under s. 34 of *The Child and Family Service Act* and issues an interim order under s. 35 that defines the court's expectations of the general parameters and time-frame of the process. The matter is then referred to a council of three Aboriginal Elders, who guide the process. Elders are selected from lists provided by the Aboriginal and Northern Initiatives Branch of Saskatchewan Justice or by the Saskatchewan Indian Cultural College in Saskatoon. Elders from the home community may attend the Opik, but may not sit on the council. Once the Opik is completed, the court may incorporate the recommendations, if any, of the Elders in a further order.

Committee Direction

The Committee noted that northern residents do not have adequate access to a range of support services. As well, there was interest in looking at developing services in a way which might build capacity in communities so that they do not have to rely on outsiders. To develop local services may require the involvement of local implementation committees and train the trainer approaches.

There is also a concern that development of services is a key component of a more comprehensive and therapeutic response to community legal issues. In the interviews conducted by Saskatchewan Aboriginal Women's Circle Corporation on Separation, Divorce, and Family Violence in Aboriginal Communities in March 2006, which was shared with the Committee, the women interviewed pointed out that the services Aboriginal and northern communities need are often lacking. These services include addictions, family counselling, legal aid, Aboriginal courtworkers, youth counselling, custody and access supports during and following relationship breakdown and more

information and support on child support and spousal support issues. The women interviewed saw family violence as a critical issue for many Aboriginal women. These women also said that not only were the law and legal process/support services not well understood, but that the courts were not being used, as there was a fear of the court system due to its lengthy process, its adversarial nature and the potential, while trying to exercise their rights, of a spouse or ex-spouse harassing them outside of court. They also identified a lack of education and information about the justice system and their rights in that system.

The Northern Youth Strategic Action Plan (NYSAP), completed in fall 2006 and based on interviews with 15 communities in the North, also identified the need for northern family addiction services, parenting education and safe houses for families and for youth, interest in establishing a family violence court in the North and the need for a family violence prevention and reduction strategy in the North. NYSAP also identified the need for enhanced legal aid services, as well as community corrections efforts targeted to reintegration of offenders. Finally, the NYSAP report noted a concern over lack of access to public phones and toll-free services, which is a logistical issue for service provision in the North.

The need for services thus supports a therapeutic approach to delivering justice in the North in both criminal and civil/family areas.

To put the family services continuum in context, the chart below (see page 25) identifies the cascading nature of services that can assist families to understand and respond to family issues. Information and early intervention can reduce the demand for legal and court services and result in reduced family trauma, reduced cost to the parties and the justice system and more immediate dispute resolution. Thus, the court system and legal supports are targeted to more complex or controversial cases.

Recommendation 2.1

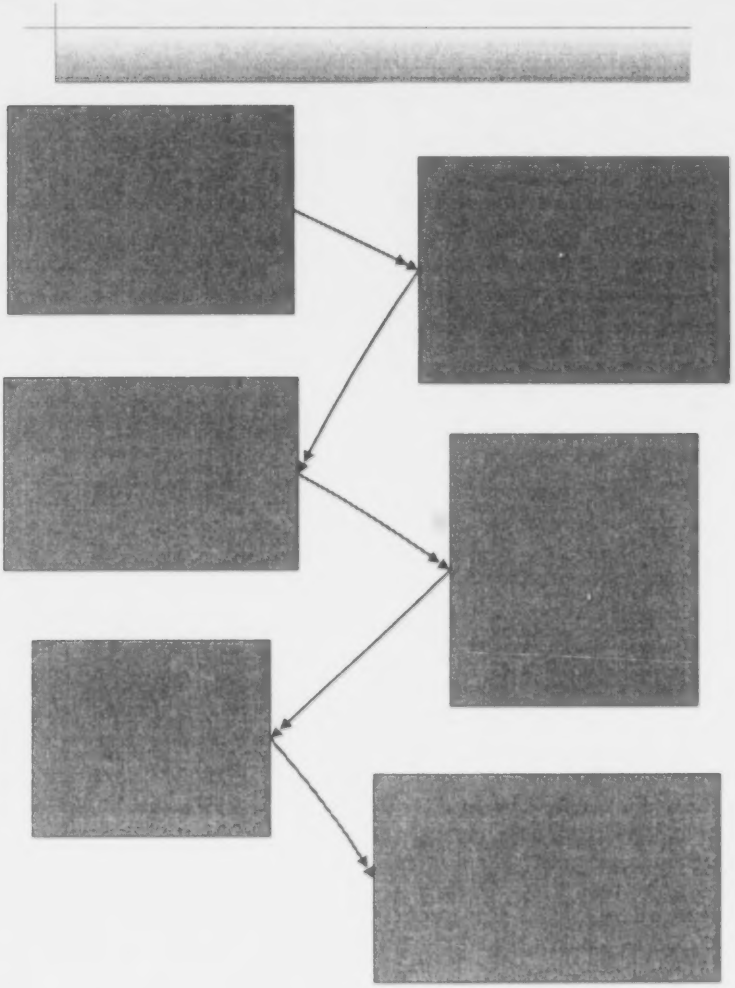
It is recommended that family law services to the North be enhanced as follows:

a) **New approaches be taken to ensure that access to information about the family justice system and the rights of individuals, among other things, be provided to citizens in the North through processes such as public education over the radio, access to a family law line or Internet portal,[2] piloting a family service centre "hub" concept in the North, and ensuring that family law information materials are accessible and available in appropriate media and languages for northerners.**

b) **Family justice services such as mediation be made more available to northern residents – this includes the potential of creating locally trained mediators, expansion of Justice mediation resources, and/or the creation of a mediation capacity pilot in the Provincial Court;**

[2] The Family and Youth Access to Justice Committee has recommended that the Province undertake a feasibility study of a law line and Internet portal, and perhaps a family law "hub", with a view to initiating such services.

c) **Enhance family legal aid capacity in the North;**
d) **Pilot an expansion of the Aboriginal courtworker role to child protection matters to include explaining the process to families and assistance in their preparation or participation in mediation or court proceedings, as well as development of an Aboriginal conferencing model such as the Opikanawasowin ("Opik") model that has been used in Saskatoon.**
e) **Enhance access to self-help kits for applications and court forms, and provide assistance in completing these kits, in order to improve access to the court process in northern communities.**
f) **Increase the access northern clients have to support variation services and the enforcement services of the Maintenance Enforcement Office/Family Justice Services.**



2.2 Criminal and Corrections Services

Background

The large distances, lack of resources and hiring and retention problems stretch criminal justice and correctional services in the North. Service workers in northern Saskatchewan may have several communities to support over several hundred kilometres. They travel over less than ideal roads or take their chances on aircraft under adverse weather conditions. Services are under-resourced for the work that they must do. This means that services are not available as widely or as intensively as necessary, which undermines access to justice services and hence access to justice in the North. In addition, where they are available, services may not always be delivered in person, and may not be delivered as intensively as might be preferable.

Hiring and retention are problematic in the North. It is often difficult to attract qualified people to northern positions. While, to some degree, job qualifications can be reformulated for the North, there is a limit as to how far justice or correctional services are willing to go to change job descriptions and qualifications for northern locations. There is a basic set of knowledge and experience that any position requires. It is sometimes difficult to find a qualified candidate within resources. Retention is also a concern, even where qualified people are found. Tight resources, and hence overwork, extensive travel, lack of perceived progress on job goals and the attendant stress, as well as other personal factors, may have a role in pushing people south.

Committee's Direction

Clearly, resources for a wide range of justice and correctional services need to be increased. This could increase the ability of justice and correctional services to hire and retain qualified personnel, provide more intensive and meaningful services to northern communities and engage communities in identifying and resolving community justice concerns.

Building local justice sector capacity is crucial in the North. All communities have leaders, whether Elders, family heads, local professionals, public figures or other concerned individuals, who could be engaged to assist in the community response to justice issues. Already, many northern communities have community justice committees or other formal or informal bodies that can be engaged to assist to address justice problems. Other community resources could also be engaged to identify and help resolve justice problems.

Service capacity in Northern communities with high offender traffic could be enhanced through building on community infrastructure where it exists and through bundling of services within an agency. This would provide a service response to support police decisions to charge, detain and remand. It would also provide more credible service responses located in the immediate community. Services that might be bundled are adult

and youth alternative measures programs, support and intensive supervision services (presently contracted service providers) and community connections and reintegration services. These services can include supervision of undertakings. Where other departments have a service response (for example DCR's family support services) these might be included in service bundles.

A recruitment and retention strategy for the North is important to any service expansion. The Committee indicated that the Department of Saskatchewan Justice, in conjunction with Corrections and Public Safety, the Law Society of Saskatchewan, the Canadian Bar Association, Aboriginal communities, New North and other stakeholders, needs to look seriously at a recruitment and retention strategy for the justice sector. It is perhaps too early to describe such a strategy, but it could include a group with ongoing oversight and perhaps a position either partially or fully devoted to recruitment and retention policies in the North.

Recommendation 2.2

It is recommended that criminal justice services be enhanced as follows:
a) Upgrade existing Victims Services Coordinator positions to full time, and introduce new services into key areas that are not yet serviced.
b) Ensure that all First Nations and larger municipalities in the North have full time Community Justice Workers.
c) With respect to the Aboriginal Courtworker Program, coordinate the activities of existing resource people:

- **All courtworkers in the North should become duty courtworkers.**
- **All courtworkers should be assigned to dedicate about 10% of their time to do research on the community and report back to the family/community leaders. This would include the provision of full-time positions where necessary so that courtworkers could provide a portion of their time to research and community development.**
- **Combining Resources – There is potential that, in some communities, the Community Justice Worker and the Aboriginal courtworker positions could be combined.**
- **Capacity Building – all resources should be identified as either a direct service provider or a referral agency. Courtworkers should provide training to integrate other front-line workers into direct service provision, such as mediation support for family/community leaders, Elders and service providers.**
- **Justices of the Peace should get increased support from courtworkers.**
- **Status blind service needs to continue, because it enhances community problem solving, rather than enhance the control of particular families/community over the development and allocation of services.**

d) Review Legal Aid staffing and services with the Saskatchewan Legal Aid Commission with a view to providing enhancements in areas where gaps in service occur.
e) Review the need for additional public prosecutions resources to address the

resource pressures created by new initiatives.

Recommendation 2.3

That Saskatchewan Justice and Corrections and Public Safety, in conjunction with other departments and agencies, the Law Society of Saskatchewan, the Canadian Bar Association, Aboriginal communities and other stakeholders, develop a recruitment and retention strategy for northern justice services, including recruitment and retention of lawyers, non-lawyer court staff, corrections employees and other justice service providers, both in a union and non-union environment.

Recommendation 2.4

Engage community leaders and extended families, Elders and service providers and other strategic persons in developing solutions to service concerns. It is important to increase capacity so that communities do not have to rely on outsiders.

Recommendation 2.5

We recommend that the Department of Corrections and Public Safety continue with the following planned initiatives:

1. **Finalize work on recruitment and retention of youth workers and adult probation in the north that will provide additional support to attract, train and retain workers at northern office locations.**
2. **Work with Athabasca, Prince Albert Parkland and Northern Health Districts to pilot satellite youth addictions and mental health assessments and treatment, allowing more assessments to be completed and providing more treatment services while offenders remain in their home communities.**
3. **Develop a Memorandum of Understanding with the Mamawetan Health District and the Community Service Centre in Sandy Bay to hire and support a youth addictions worker for Sandy Bay and Pelican Narrows.**
4. **With justice Community Services review the alternative measures program in the north, amongst other items looking at access to programs and the integrity of programming.**
5. **Increase the capacity of existing community-based organizations in the north by providing training and follow-up to training to ensure what is learned is used in client service.**

The Committee further recommends that the following more long-term enhancem :ts be examined:

6. **Increased screening of offenders by JP and/or Crown such that only those offenders who require ongoing remand be held in custody.**
7. **That service capacity in Northern communities with high offender traffic is enhanced through building on community infrastructure where it exists and through bundling of services within an agency. This will provide a service response that would support police options to charge, detention and remand and provide more credible service responses located in the immediate community. Services that might be bundled are adult and youth alternative measures programs, support and intensive supervision services (presently contracted service providers) and community connections and reintegration services. These services can include supervision of undertakings. Where other departments have a service response (for example DCR with family support services) these services might be included in service bundles.**

Recommendation 2.6

An educational and information network should be established to assist citizens in understanding the justice system and court services.

(C) Geography and Technology

Geography poses a very big problem for access to justice in the North. Driving distances and times are long, if roads are passable or exist at all, and airplane schedules are variable and flights extremely expensive. A flight to Europe from Prince Albert may cost less than a trip from one northern location to another. Many locations, though, can only be reached by air for some or all of the year. It is costly for judges, prosecutors, defence counsel and the RCMP to transport themselves and their prisoners from one location to another. There are therefore some advantages to increasing the use of technology.

Technological Innovations

A telebail program was initiated in Saskatchewan in 2006, while videoconferencing is already in use on a pilot basis in Saskatoon between the Provincial Court and the Saskatoon Correctional Centre. Telephone appearances and videoconferencing may be promising tools for increasing access to justice in the North if their use is expanded. Some first appearances, docket appearances, bail hearings and other procedures could potentially be undertaken by telephone or, where possible, by videoconference. This would reduce costs, court time and inconvenience to judges, counsel, the police and offenders, while preserving the rule of law.

While the law allows for use of telephone and videoconference appearances, there are many details that would need to be worked out. The Chief Judge has produced a protocol

for telephone use and this could be extended to all northern court points. Protocols need also to be developed for the use of videoconferencing.

Remand of Prisoners out of Home Communities

There have also been concerns over the transportation home of prisoners remanded out of their home communities. Prisoners are sometimes remanded out of their home communities and then released at their first appearance. This creates additional transportation costs. There may also be liability issues connected with the release of such prisoners outside of their home communities. The provincial and federal Crowns will work with the RCMP to draft a protocol that ensures the RCMP will only remand prisoners if the Crown intends to seek their continued remand in custody at first appearance; other prisoners will be released.

It may also be possible to erect a remand centre somewhere in the North, perhaps in La Ronge. Such a centre would permit the remanding of prisoners closer to home, hence reducing transportation costs and liability somewhat, though there would continue, of course, to be transportation and other costs associated with the bringing of prisoners to La Ronge from distant locations. A business plan will have to be drawn up to demonstrate whether the erection of such a centre makes fiscal sense.

Recommendation 3.1

Increase the focus on the use of telephone and videoconferencing to accomplish the following objectives:

- **Reduce the need to transport prisoners for routine court appearances;**
- **Allow prisoners in RCMP cells to be dealt with on a more timely basis;**
- **Reduce the length of docket at busy circuit point locations;**
- **Allow court at circuit point locations to proceed during bad weather days;**
- **Allow counsel to appear by telephone where appropriate.**

Recommendation 3.2

Implement the following initiatives in consultation with stakeholders:

a) The Provincial Court should implement the telephone protocol for all circuit points in the North. Court Services will ensure communication lines and equipment are available at each circuit point to facilitate court to be held via telephone.

b) The Provincial Court should allow first appearances, routine appearances and bail hearings to be held via videoconferencing. In 2007-08, arrangements will be made for remanded prisoners from the Prince Albert Correctional Centre and Pine Grove Correctional Centre to be transported to Prince Albert Provincial Court. Court Services will install equipment at Prince Albert, La Ronge and Meadow Lake Provincial Courts and the La Loche and Pelican Narrows RCMP Detachments.

Videoconferencing will be held as follows:

1. **Pelican Narrows RCMP cells and Prince Albert Provincial Court (form part of the in-custody docket in Prince Albert).**
2. **La Ronge Provincial Court and Prince Albert Provincial Court (form part of the in-custody docket in La Ronge) this could include prisoners from both La Ronge and circuit points served from La Ronge.**
3. **Meadow Lake Provincial Court and Prince Albert Provincial Court (form part of the in-custody docket in Meadow Lake). This could include prisoners from Meadow Lake and circuit points served from Meadow Lake.**
4. **La Loche RCMP cells and Meadow Lake Provincial Court (form part of the in-custody docket in Meadow Lake).**
5. **La Loche Provincial Building and Prince Albert Provincial Court (regular circuit).**
6. **Consideration could be given to the use of Video court for young offender docket matters as well. This could mean:**
   - **i. Remand youth from the north at Prince Albert Youth Residence access video court links to northern video court points from the Prince Albert courthouse.**
   - **ii. Additionally, consideration could be given to build a video court at the North Battleford courthouse that would link remanded young offenders at the North Battleford youth centre to northern court points.**

c) Court Services and CPS should explore the feasibility of completing phase 2 of the Video-Court at the Saskatoon Correctional Centre in 2007-08. Videoconferencing will be expanded to include the following:

- **Routine appearances and bail hearings between Saskatoon Provincial Court and the Saskatoon Correction Centre.**
- **First appearances, routine appearances and bail hearings between Prince Albert Provincial Court and the Saskatoon Correctional Centre.**
- **First appearances, routine appearances and bail hearings between Meadow Lake Provincial Court and the Saskatoon Correctional Centre.**

d) Court Services and the RCMP should continue to implement video-conferencing at circuit points in the North. The focus in 2007-08 will be Pelican Narrows and La Loche.

e) Court Services and CPS should partner to develop options to implement a video-court at the Prince Albert Correctional Centre and Pine Grove Correctional Centre. Cost estimates will be provided in preparation for the 2008/09 budget process.

f) Court Services and CPS should partner to explore options to implement video-courts at the Saskatoon, North Battleford and Prince Albert Youth Facilities as

part of the 2008/09 budget process.

g) The Court of Queen's Bench could work with Court Services to examine the potential for development of video-technology resources for Queen's Bench in northern locations.

Recommendation 3.3

That the RCMP and the Crown work together to develop a protocol for remanding prisoners to La Ronge, Meadow Lake and Prince Albert. Where prisoners are released from remand in La Ronge, Meadow Lake and Prince Albert, the RCMP should provide transportation home, particularly to fly-in locations. Where it is not feasible for the RCMP to provide transport in a reasonable period of time, the Province or the Federal Government should pay for that transport.

APPENDIX A

ACCESS TO JUSTICE COMMITTEE MEMBERS – NORTHERN

NAME	ADDRESS
Doug Moen, Q.C. (Chair)	Deputy Minister, Saskatchewan Justice
Madam Justice Y.G.K. Wilkinson	Court of Queen's Bench, Saskatoon
Chief Judge G.T.G. Seniuk	Provincial Court, Saskatoon
Judge G.M. Morin	Provincial Court, Prince Albert
Terry Lang	Deputy Minister, Corrections and Public Safety
Paul Blain	Corrections and Public Safety
Fraser Denton	Corrections and Public Safety
Constance Hourie	Corrections and Public Safety
Joanne Roy	Meadow Lake Tribal Council
Betty Mitsuing	MLTC, Makwa Sahgiaehcan First Nation
Bill Campbell	Public Prosecutions, Meadow Lake
Mitch Holash	Harradence, Logue, Holash, Canadian Bar Association
Doug Curliss	Justice Canada
Jan Turner	Community Justice Division, Saskatchewan Justice
Larry Henry	Community Services Branch, Prince Albert
Maxine Hodgson	Aboriginal and Northern Justice Initiatives Branch, Saskatchewan Justice
Betty Ann Pottruff, Q.C.	Policy, Planning and Evaluation, Saskatchewan Justice
Max Bilson	Policy, Planning and Evaluation, Saskatchewan Justice
Kim Earing	Saskatchewan Legal Aid Commission, Northern Area
Maria-Lynn Freeland	Sheriff/Local Registrar, Court of Queen's bench
Rosanne Newman	Saskatchewan Legal Aid Commission, Meadow Lake
Chris Lafontaine	Courtworker Program
Inspector Grant St. Germaine	RCMP North District Management Team, Prince Albert
Sgt. Bill Sparkes	RCMP Northern District Management Team, Prince Albert
George Thurlow, Q.C.	Saskatchewan Legal Aid Commission, Meadow Lake, Law Society of Saskatchewan
Chief Don Deranger	Prince Albert Grand Council
Victoria Elliot-Erickson	Prince Albert Grand Council
Andrea Sanderson	Prince Albert Grand Council